

### REMARKS

The claims appearing in this Application were 1 through 14. Claims 1, 2, 6, 9 and 12-14 were rejected as being unpatentable over Fealey et al. U.S. 4,585,154. Claims 3-5, 7, 8, 10 and 11 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claims remaining under consideration are 1, 3, 4, 5, 8, 9, 11 and 15-18.

Claim 15 is original Claim 3 rewritten in independent form including all of the limitations of the base claim and any intervening claims and, therefore, it is respectfully submitted that Claim 15, as presently submitted, is allowable. Claim 4 depends from Claim 15 and Claim 5 depends from Claim 4. Therefore, Applicant respectfully submits that Claims 4 and 5 are likewise allowable.

Claim 16 is original Claim 7 rewritten in independent form including all of the limitations of the base claim and any intervening claims. Therefore, Applicant respectfully submits that Claim 16 is allowable. Claim 8 is dependent from Claim 16 and it is respectfully submitted as also, therefore, allowable.

Claim 17 is original Claim 10 rewritten in independent form including all of the limitations of the base claim and any intervening claims. Therefore, Applicant respectfully submits that Claim 17 is allowable. Claim 11 is dependent from Claim 17 and, therefore, it is respectfully submitted it is also allowable.

The claims presently submitted herewith and under consideration which were rejected in the Office Action are 1, 3, 6, 9 and 18. Applicant respectfully requests reconsideration of these claims in view of the Amendments to them and the remarks set forth herein below.

Applicant's invention is directed to a nail magazine used in a power nailing hand tool which is used to feed a rolled belt of fasteners (nails) which fasteners include a flat, elongated body with an angled head extended from a top end of the body and a point at the bottom. A fastener of this configuration, when rolled, causes the angled heads of the fasteners of an outer layer to respectively rest on the angled heads of the preceding inner layer. Such disposition of the fasteners causes the rolled belt of fasteners to extend from its center divergently upwardly and outwardly. Therefore, a magazine for holding and feeding these fasteners for use in a power tool must function to maintain the fasteners in a position so as to be aligned with a fastener feed hole in the magazine while the fasteners are being depleted, even though the thickness of the rolled belt of fasteners is continuously decreasing as the fasteners are propelled into a work piece.

Claim 1 as amended, being the only independent claim that is not allowed and is presently under consideration, defines Applicant's invention as a nail magazine for dispensing a fastener of a configuration above-described in a rolled belt of such fasteners as comprising a casing, a magazine shaft vertically disposed inside the casing, with the magazine shaft having an upright shaft and a nail carrier sleeve vertically movably mounted around the upright shaft and adapted to carry the rolled belt of nails and to support the angled heads of the nails of the inner layer of said rolled belt of nails, a cover is hinged to the casing with a cover defining, along with the casing, a nail feed hole when closed on the casing, and a spring for continuously biasing the angled heads of the outer layer of the rolled belt into engagement with the cover, thereby keeping the nails in line with the nail feed hole.

Claim 3 is dependent from Claim 1 but defines a groove formed by a tubular flange formed integrally with the periphery of the upright shaft within which the spring is received.

Claim 18 is dependent from Claim 3 and further defines a guide groove with the nail carrier sleeve having a raised portion projected into the guide groove to guide vertical movement of the nail carrier sleeve in the housing. Claim 6 is dependent from Claim 1 and further defines a circular guide plate fastened to the periphery of the nail carrier sleeve and which circular guide plate is peripherally disposed in contact with an inside wall of the casing to guide vertical movement of the nail carrier sleeve.

Claim 9 is also dependent from Claim 1 and further defines a nail-feeding wall in a peripheral open side of the magazine casing with the cover which fits the casing and includes a nail-feeding wall formed in a peripheral open side thereof, so that the combination of the casing and the cover define a nail feed hole upon closing of the cover on the casing.

Applicant respectfully submits that Claims 1, 3, 6, 9 and 18 define subject matter which is patentably distinct over the references of record and Applicant respectfully requests reconsideration thereof.

Examiner rejected the claims as originally presented over the patent to Fealey, et al. U.S. 4,585,154 on the grounds that the claims were obvious under 35 U.S.C. § 103(a). The Fealey, et al. patent is a patent directed to a magazine canister assembly for a power driving tool for fasteners. However, Fealey's problem, which is being solved, is the provision of a magazine canister which can be adjusted to accept fasteners of different sizes. Fealey's canister includes three different plastic parts: (1) a mounting part, (2) a package supporting part, and (3) a package covering part. The package supporting part is positioned at various discrete points within the mounting part depending upon the size of fastener to be inserted within the magazine and, when so positioned, is secured in place by a latching mechanism 86. When a different size fastener is to be inserted in the magazine, the latching mechanism 86 is released and the package

supporting part repositioned to accept the new different sized fastener after which the latching mechanism is again secured. The upper portion of the fastener package covering part 50 is molded from plastic in such a way as to define a spring 116 such that when the package covering part is moved into its closed position, the spring will move into engagement with the headed end of the fastener package to apply a force on the upper headed end of the fastener package biasing the pointed end into engagement with the upper surface of the bottom wall 76. There is no teaching of the fastener configuration which Applicant's magazine is specifically designed to accommodate nor of the problems which Applicant faces in accommodating such a rolled belt of fasteners.

The Examiner has stated that "Fealey, et al. do not show a nail carrier sleeve vertically movably mounted around the shaft; however, the shaft (106) of Fealey, et al. in combination with the biasing spring (116) perform the same function of Applicant's invention, i.e. the belt of connected nails are guided and biased toward rotational movement about the central axis of the shaft (106) as the leading portion of the belt is fed to the nail-feeding mechanism (34) (see Column 7, lines 50-68, Fig. 4)." Applicant respectfully submits that Examiner's characterization of Fealey, et al. as performing the same function as Applicant's invention is incorrect. As above pointed out, Applicant's invention of the nail carrier sleeve is specifically defined as "adapted to carry said rolled belt of nails and to support the angled heads of the nails of the inner layer of said rolled belt of nails" (emphasis added). Although a rolled belt of fasteners can be inserted in the magazine of Fealey, et al., there is no teaching of any type that the heads of the fasteners are supported by the center post 106 nor, in fact, based upon the teachings of Fealey, et al. is there any requirement for such a structure. Applicant respectfully submits that this is a salient feature of Applicant's magazine and provides a function not suggested or even hinted at by Fealey, et al.

In addition, as above pointed out, as a result of the manner in which the angled heads of the fasteners being fed are disposed so that the heads of an outer layer of the rolled belt of fasteners are respectively rested on the angled heads of the preceding inner layer, thus providing the upwardly and outwardly converging row of fasteners, a structure must be provided to maintain the outermost layer of fasteners in line with the nail feed hole. Thus, it is required that the nail carrier sleeve be continuously urged upwardly to, in turn, press the outermost layer of fastener angled heads into engagement with the cover to maintain the fasteners in line with the nail feed hole. This is exactly the opposite of the functioning of the Fealey, et al. structure. In fact, Applicant respectfully submits that if the structure, as shown in Fealey, et al., were to be incorporated into Applicant's magazine, the spring 116 would apply a pressure on one side only of the outermost layer of the rolled fasteners, thus biasing them in such a way as to cause them to be misaligned with the nail feed hole, thus causing the magazine to be inoperable for the purpose intended.

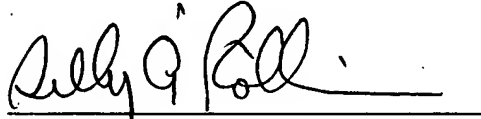
Applicant respectfully submits that Claim 1, as now amended, defines subject matter which is patentably distinct over the reference of Fealey, et al. U.S. 4,585,154 and respectfully requests reconsideration thereof and the issuance of a Notice of Allowance with respect thereto.

Since Claims 3, 6, 9 and 18 are each dependent, directly or indirectly, from Claim 1 and, thus, contain all of the limitations set forth in Claim 1 and, in addition thereto, add additional limitations to the structure as above described, Applicant respectfully submits that each of these claims, like Claim 1, also define subject matter which is patentably distinct over Fealey, et al. and respectfully requests reconsideration thereof and the issuance of a Notice of Allowance with respect thereto.

In view of the foregoing Amendments and these remarks, Applicant respectfully submits that the claims presently appearing herein are all patentable and Applicant, therefore, respectfully requests the issuance of a Notice of Allowance with respect thereto.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Billy A. Robbins", written over a horizontal line.

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